

AMENDED IN SENATE JUNE 28, 2005

AMENDED IN ASSEMBLY MAY 26, 2005

AMENDED IN ASSEMBLY MARCH 31, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 386

Introduced by Assembly Member Lieber

February 11, 2005

An act to amend Sections 9886.1 and 9886.2 of the Business and Professions Code, to amend Sections 44001.5, 44002, 44003, 44003.5, 44005, 44010.5, 44011, 44011.6, 44013, 44013.5, 44014.7, 44017, 44020, 44024, 44024.5, 44036, 44037.2, 44050.5, 44058, 44060, 44061, 44070, 44070.5, 44071, 44072.1, 44072.10, 44081, 44091, 44093, 44094, and 44095 of, and to add Section 44001.4 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 386, as amended, Lieber. Air pollution: motor vehicle inspection and maintenance.

Existing law establishes a motor vehicle inspection and maintenance (smog check) program, developed, implemented, and administered by the Department of Consumer Affairs. The duty of enforcing and administering the program is vested in the Chief of the Bureau of Automotive Repair within the department.

This bill would require the State Air Resources Board, in consultation with the department, to develop, and revise as necessary, the program goals, program design, and program funding to implement the smog check program. The department, in consultation with the state board, would be required to implement and enforce the

program designed by the state board. The duties of the department would be vested in the chief of the bureau. The bill would require the office of the Governor to prepare an interagency agreement relating to the program goals, program design, and program funding of this act, and would require the state board, the department, and any other affected agency to enter into the agreement no later than ~~March 31~~ June 30, 2006. The bill would make conforming changes relating to the responsibilities of the state board and of the department in connection with the motor vehicle inspection and maintenance program. The bill would also make legislative findings and declarations relating to the motor vehicle inspection and maintenance program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9886.1 of the Business and Professions
- 2 Code is amended to read:
- 3 9886.1. The executive officer of the State Air Resources
- 4 Board shall report to the Controller at the beginning of each
- 5 month, for the month preceding, the amount and source of all
- 6 fees and revenues received by the State Air Resources Board
- 7 pursuant to this chapter and Chapter 5 (commencing with Section
- 8 44000) of Part 5 of Division 26 of the Health and Safety Code,
- 9 and at that time shall pay the entire amount of those fees and
- 10 revenues into the State Treasury for credit to the Vehicle
- 11 Inspection and Repair Fund.
- 12 SEC. 2. Section 9886.2 of the Business and Professions Code
- 13 is amended to read:
- 14 9886.2. The money in the Vehicle Inspection and Repair
- 15 Fund necessary for the administration of this chapter and Chapter
- 16 5 (commencing with Section 44000) of Part 5 of Division 26 of
- 17 the Health and Safety Code is available to the State Air
- 18 Resources Board, when appropriated for those purposes.
- 19 SEC. 3. Section 44001.4 is added to the Health and Safety
- 20 Code, to read:
- 21 44001.4. The Legislature hereby finds and declares all of the
- 22 following:

1 (a) The state continues to face challenges in reducing
2 emissions from motor vehicles, which account for approximately
3 70 percent of the state's air pollution.

4 (b) While the Department of Consumer Affairs has done a
5 commendable job in operating the motor vehicle inspection
6 program, the priorities for an agency running an air quality
7 program should be air quality and public health, and not
8 necessarily consumer protection.

9 (c) The state board is fundamentally better suited to lead the
10 motor vehicle inspection program given its mission and expertise
11 in regulating vehicle emissions and in protecting public health.

12 SEC. 4. Section 44001.5 of the Health and Safety Code is
13 amended to read:

14 44001.5. (a) The state board shall, in consultation with the
15 department, develop, and revise as necessary, the program goals,
16 program design, and program funding to implement this chapter.
17 The department shall, in consultation with the state board,
18 implement and enforce the program designed by the state board.
19 The duties of the department under this chapter are vested in the
20 chief of the bureau who is responsible to the director.

21 (b) The state board and the department shall take those actions
22 consistent with their respective statutory authority to ensure that
23 the reduction in vehicle emissions of hydrocarbons, carbon
24 monoxide, and oxides of nitrogen meet or exceed the reductions
25 required by the amendments enacted to the Clean Air Act in
26 1990. The state board and the department shall endeavor to
27 achieve these vehicle emission reductions as expeditiously as
28 practicable, but not later than the deadlines established by the
29 amendments enacted to the Clean Air Act in 1990.

30 (c) The department, consistent with the program designed by
31 the state board, shall also ensure that gross polluters are
32 identified and failed when tested pursuant to this chapter and that
33 vehicles meeting the state standards established by the state
34 board, are protected from being falsely failed.

35 (d) The office of the Governor, after consultation with the
36 state board, the department, and any other affected agency, shall
37 prepare an interagency agreement between the state board, the
38 department, and any other affected agency, relating to the
39 program goals, program design, and program funding to
40 implement this chapter, as specified in subdivision (a). The state

1 board, the department, and any other affected agency shall enter
2 into the agreement no later than ~~March 31~~ *June 30*, 2006. The
3 agreement may include, among other things, provisions that
4 address cost reimbursement to the department for implementing
5 and enforcing the program, interagency coordination and
6 decisionmaking, and conflict resolution. A copy of the agreement
7 and any subsequent amendments shall be submitted to the
8 Legislature ~~within 14 days of~~ *for review at least 60 days prior to*
9 the execution of the agreement or amendments to the agreement.

10 SEC. 5. Section 44002 of the Health and Safety Code is
11 amended to read:

12 44002. The state board shall have the sole and exclusive
13 authority within the state for developing and revising the motor
14 vehicle inspection program in accordance with this chapter.

15 For the purposes of administration and enforcement of this
16 chapter, the department, and the director and officers and
17 employees thereof, shall have all the powers and authority
18 granted under Division 1 (commencing with Section 1) and
19 Division 1.5 (commencing with Section 475) and Chapter 20.3
20 (commencing with Section 9880) of Division 3 of the Business
21 and Professions Code and under Chapter 33 (commencing with
22 Section 3300) of Title 16 of the California Code of Regulations.
23 Inspections and repairs performed pursuant to this chapter, in
24 addition to meeting the specific requirements imposed by this
25 chapter, shall also comply with all requirements imposed
26 pursuant to Division 1 (commencing with Section 1) and
27 Division 1.5 (commencing with Section 475) and Chapter 20.3
28 (commencing with Section 9880) of Division 3 of the Business
29 and Professions Code and Chapter 33 (commencing with Section
30 3300) of Title 16 of the California Code of Regulations.

31 SEC. 6. Section 44003 of the Health and Safety Code is
32 amended to read:

33 44003. (a) (1) An enhanced motor vehicle inspection and
34 maintenance program is established in each urbanized area of the
35 state, any part of which is classified by the Environmental
36 Protection Agency as a serious, severe, or extreme nonattainment
37 area for ozone or a moderate or serious nonattainment area for
38 carbon monoxide with a design value greater than 12.7 ppm, and
39 in other areas of the state as provided in this chapter.

(2) The enhanced motor vehicle inspection and maintenance program established pursuant to paragraph (1) shall be periodically assessed by the state board, in consultation with the department, to determine whether changes in the program may be warranted. The state board shall issue a report to the Legislature based on those periodic assessments, recommending any modifications to the enhanced program to improve its operations and lessen its impact on consumers while still achieving the necessary emission reductions to attain air quality standards. The report shall include a review of any program proposed pursuant to Section 15 of Chapter 803 of the Statutes of 1997.

(3) A basic vehicle inspection and maintenance program shall be continued in all other areas of the state where a program was in existence under this chapter as of the effective date of this paragraph.

(b) The state board, in consultation with the department, may prescribe different test procedures and equipment requirements for those areas described in subdivision (a). Program components shall be operated in all program areas unless otherwise indicated, as determined by the state board. In those areas where the biennial program is not implemented and smog check inspections are required to complete the requirements set forth in Sections 4000.1 and 4000.2 of the Vehicle Code, program elements that apply in basic areas, including test equipment requirements for smog check stations, shall apply.

(c) (1) Districts classified as attainment areas may request the department to implement all or part of the program elements defined in this chapter. However, the department shall not implement the program established by Section 44010.5 in any area other than an urbanized area, any part of which is classified by the Environmental Protection Agency as a serious, severe, or extreme nonattainment area for ozone or a moderate or serious nonattainment area for carbon monoxide with a design value greater than 12.7 ppm.

(2) Districts that include areas classified as basic program nonattainment areas pursuant to subdivision (a) may, except as provided in paragraph (1), request the implementation in those areas of test procedures and equipment required for enhanced program areas and any other program requirement specified for enhanced program areas.

SEC. 7. Section 44003.5 of the Health and Safety Code is amended to read:

44003.5. (a) Notwithstanding any other provision of law, an enhanced motor vehicle inspection and maintenance program, including the provisions of the test-only program described in Section 44010.5, is established in the San Francisco Bay Area *Air* Basin, consistent with the requirements described in subdivision (b).

(b) The department shall commence operation of the enhanced motor vehicle inspection and maintenance program in the urbanized areas of the San Francisco Bay Area *Air* Basin, including directing motor vehicles to test-only facilities, after the department determines that an adequate number of test-only stations, test and repair stations, referee services, and other facilities and equipment necessary to provide reliable and convenient service to vehicle owners subject to the program exist in that basin.

(c) Upon commencing operation of the enhanced program in those areas of the San Francisco Bay Area *Air* Basin subject to the requirements of the program, the bureau shall utilize emission standards for oxides of nitrogen, and percentages of vehicles directed to test-only stations similar to those utilized to begin the initial implementation of the program in other enhanced areas of the state. The state board shall phase in more stringent emission standards for oxides of nitrogen and direct higher percentages of vehicles to test-only stations, so that the fully implemented enhanced program in the San Francisco Bay Area is consistent with the fully implemented enhanced program in other areas of the state.

(d) (1) On or before January 1, 2004, and concurrent with implementing subdivision (b), the board shall submit for peer review the study produced by the University of California at Riverside and commissioned by the Bay Area Air Quality Management District, and any other available scientifically credible evidence, to determine the impact of the enhanced motor vehicle inspection and maintenance program on Contra Costa County and surrounding areas. If the peer review concludes that the enhanced motor vehicle inspection and maintenance program in the urbanized areas of the San Francisco Bay Area *Air* Basin results in adverse ozone and other air quality impacts in Contra

1 Costa County or parts of Solano, San Joaquin, Alameda, and
2 Santa Clara Counties, the board, on or before January 1, 2004,
3 shall suggest mitigation measures to the Legislature and to the
4 respective air quality districts. These measures may include, but
5 need not be limited to, a recommendation for additional funds to
6 be made available for transit purposes and private passenger
7 motor vehicle maintenance and repair purposes.

8 (2) It is the intent of the Legislature in enacting this section to
9 seek implementation of those mitigation measures suggested
10 under paragraph (1) that are found to be scientifically credible
11 means to mitigate adverse ozone and other air quality impacts,
12 are consistent with this section, and do not adversely impact
13 downwind regions.

14 (e) Consistent with subdivision (b), it is the intent of the
15 Legislature that the department commence operation of the
16 enhanced motor vehicle inspection and maintenance program in
17 the urbanized areas of the San Francisco Bay *Area* Air Basin as
18 expeditiously as possible in order to assist the San Francisco Bay
19 Area and downwind air districts in meeting their federal air
20 quality attainment requirements.

21 SEC. 8. Section 44005 of the Health and Safety Code is
22 amended to read:

23 44005. (a) The Department of Motor Vehicles shall
24 cooperate with the state board in implementing any changes to
25 enhance the program to achieve greater efficiency,—~~cost~~
26 ~~effectiveness~~ *cost-effectiveness*, and convenience, or to reduce
27 excess emissions in accordance with this chapter.

28 (b) The program shall provide for inspection of specified
29 motor vehicles, as determined by the state board, in consultation
30 with the department, upon initial registration, biennially upon
31 renewal of registration, upon transfer of ownership, upon the
32 issuance of a notice of noncompliance to a gross polluter
33 pursuant to Section 44081, and as otherwise provided in this
34 chapter.

35 SEC. 9. Section 44010.5 of the Health and Safety Code is
36 amended to read:

37 44010.5. (a) The department shall implement a program with
38 the capacity to commence, by January 1, 1995, the testing at
39 test-only facilities, in accordance with this chapter, of 15 percent
40 of that portion of the total state vehicle fleet consisting of

1 vehicles subject to inspection each year in the biennial program
2 and that are registered in the enhanced program area, as
3 established pursuant to paragraph (1) of subdivision (a) of
4 Section 44003.

5 (b) (1) The state board shall increase the capacity of the
6 program so that the capacity exists to commence, by January 1,
7 1996, the testing at test-only facilities of that portion of the state
8 vehicle fleet that is subject to inspection and is registered in the
9 enhanced program area, which is sufficient to meet the emission
10 reduction performance standards established by the
11 Environmental Protection Agency in regulations adopted
12 pursuant to the Clean Air Act Amendments of 1990, taking into
13 account the results of the pilot demonstration program
14 established pursuant to Section 44081.6.

15 (2) Upon increasing the capacity of the program pursuant to
16 paragraph (1), the state board shall afford smog check stations
17 that are licensed and certified pursuant to Sections 44014 and
18 44014.2 the initial opportunity to perform the required
19 inspections. The state board shall adopt, by regulation, the
20 requirements to provide that initial opportunity.

21 (3) If the department determines that there is an insufficient
22 number of licensed test-only smog check stations operating in an
23 enhanced area to meet the increased demand for test-only
24 inspections, the department may increase the capacity of the
25 program by utilizing existing contracts.

26 (c) The program shall utilize loaded mode dynamometer test
27 equipment, as determined through the pilot demonstration
28 program.

29 (d) Vehicles in the enhanced program area which are not
30 subjected to the program established by this section may be
31 tested at smog check stations licensed pursuant to Section 44014
32 that use loaded mode dynamometers.

33 (e) (1) The department may implement the program
34 established pursuant to subdivision (a) through a network of
35 privately operated test-only facilities established pursuant to
36 contracts to be awarded pursuant to this section.

37 (2) The initial contracts awarded pursuant to this section shall
38 terminate not later than seven years from the date that the
39 contracts were executed.

(f) No person shall be a contractor of the department for test-only facilities in all air basins, exclusively, where the enhanced program is in effect unless the department determines, after a public hearing, that there is not more than one qualified contractor. The South Coast Air Basin shall have at least two contractors, and the combined enhanced program area that includes Bakersfield, Fresno, and Sacramento shall have at least two contractors. The department may operate test-only facilities on an interim basis while contractors are being sought.

(g) (1) In awarding contracts under this section, the department shall request bids through the issuance of a request for proposal.

(2) The department shall first determine which bidders are qualified, and then award the contract to the qualified bidder, giving priority to the test cost and convenience to motorists.

(3) The department shall provide a contractual preference, as determined by the department, not to exceed 10 percent of the total proposal evaluation score, based on the following factors:

(A) Up to 5 percent to bidders providing firm commitments to employ businesses that are licensed or otherwise substantially participating in the smog check program after January 1, 1994.

(B) Up to 5 percent to bidders based on the extent to which bidders maximize the potential economic benefit of the smog check program on this state over the term of the contract. That potential economic benefit shall include the percentage of work performed by California-based firms, the potential of the total project workforce who will be California residents, and the percentage of subcontracts that will be awarded to California-based firms.

(4) Any contract executed by the department for the operation of a test-only facility shall expressly require compliance with this chapter and any regulations adopted by the department pursuant to this chapter.

(h) The department shall ensure that there is a sufficient number of test-only facilities, and that they are properly located, to ensure reasonable accessibility and convenience to all persons within an enhanced program area, and that the waiting time for consumers is minimized. The department may operate test-only facilities on an interim basis to ensure convenience to consumers. The department shall specify in the request for proposal the

1 minimum number of test-only facilities that are required for the
2 program. Any contracts initially awarded pursuant to this section
3 shall ensure that the contractors are capable of fulfilling the
4 requirements of subdivision (a).

5 (i) Any data generated at a test-only facility shall be the
6 property of the state, and shall be fully accessible to the
7 department or state board at any time. The department may set
8 contract specifications for the storage of that data in a central
9 data storage system or facility designated by the department.

10 (j) The department shall ensure an effective transition to the
11 new program by implementing an effective public education
12 program and may specify in the request for proposal a dollar
13 amount that bidders are required to include in their bids for
14 public education activities, to be implemented pursuant to
15 Section 44070.5.

16 (k) The department shall ensure the effective management of
17 the test-only facilities and shall specify in the request for
18 proposal that a manager be present during all hours of station
19 operation.

20 (l) The department shall ensure and facilitate the effective
21 transition of employees of businesses that are licensed or
22 otherwise substantially participating in the smog check program
23 and may specify in the request for proposal that test-only facility
24 management be Automotive Service Excellence (ASE) certified,
25 or be certified by a comparable program as determined by the
26 department.

27 (m) As part of the contracts to be awarded pursuant to
28 subdivision (e), the department may require contractors to
29 perform functions previously undertaken by referee stations
30 throughout the state, as determined by the department, at some or
31 all of the affected stations in enhanced areas, and at additional
32 stations outside enhanced areas only to the extent necessary to
33 provide appropriate access to referee functions.

34 (n) Notwithstanding any other provision of law, to avoid
35 delays to the program implementation timeline required by this
36 chapter or the Clean Air Act, the Department of General
37 Services, at the request of the department, may exempt contracts
38 awarded pursuant to this section from existing laws, rules,
39 resolutions, or procedures that are otherwise applicable,
40 including, but not limited to, restrictions on awarding contracts

1 for more than three years. The department shall identify any
2 exemptions requested and granted pursuant to this subdivision
3 and report thereon to the Legislature.

4 (o) This section shall not be implemented unless the
5 memorandum of agreement described in Section 44081.6 is
6 signed by both the California Environmental Protection Agency
7 and the Environmental Protection Agency.

8 (p) The department shall implement the program established in
9 this section only in urbanized areas classified by the
10 Environmental Protection Agency as a serious, severe, or
11 extreme nonattainment area for ozone or a moderate or serious
12 nonattainment area for carbon monoxide with a design value
13 greater than 12.7 ppm, and shall not implement the program in
14 any other area.

15 (q) If existing smog check stations, in order to participate in
16 the enhanced program, have been required to make additional
17 investments of more than ten thousand dollars (\$10,000), the
18 department shall submit recommendations to the Governor and
19 the Legislature for any appropriate mitigation measures.

20 SEC. 10. Section 44011 of the Health and Safety Code, as
21 amended by Section 2 of Chapter 704 of the Statutes of 2004, is
22 amended to read:

23 44011. (a) All motor vehicles powered by internal
24 combustion engines that are registered within an area designated
25 for program coverage shall be required biennially to obtain a
26 certificate of compliance or noncompliance, except for all of the
27 following:

28 (1) Every motorcycle, and every diesel-powered vehicle, until
29 the department, pursuant to Section 44012, implements test
30 procedures applicable to motorcycles or to diesel-powered
31 vehicles, or both.

32 (2) Any motor vehicle that has been issued a certificate of
33 compliance or noncompliance or a repair cost waiver upon a
34 change of ownership or initial registration in this state during the
35 preceding six months.

36 (3) Any motor vehicle manufactured prior to the 1976
37 model-year.

38 (4) (A) Except as provided in subparagraph (B), any motor
39 vehicle four or less model-years old.

1 (B) Beginning January 1, 2005, any motor vehicle six or less
2 model-years old, unless the state board finds that providing an
3 exception for these vehicles will prohibit the state from meeting
4 the requirements of Section 176(c) of the federal Clean Air Act
5 (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with
6 respect to the state implementation plan required by the federal
7 Clean Air Act.

8 (C) Any motor vehicle excepted by this paragraph shall be
9 subject to testing and to certification requirements as determined
10 by the department, if any of the following apply:

11 (i) The state board determines through remote sensing
12 activities or other means that there is a substantial probability
13 that the vehicle has a tampered emission control system or would
14 fail for other cause a smog check test as specified in Section
15 44012.

16 (ii) The vehicle was previously registered outside this state
17 and is undergoing initial registration in this state.

18 (iii) The vehicle is being registered as a specially constructed
19 vehicle.

20 (iv) The vehicle has been selected for testing pursuant to
21 Section 44014.7 or any other provision of this chapter
22 authorizing out-of-cycle testing.

23 (5) In addition to the vehicles exempted pursuant to paragraph
24 (4), any motor vehicle or class of motor vehicles exempted
25 pursuant to subdivision (b) of Section 44024.5. It is the intent of
26 the Legislature that the state board, pursuant to the authority
27 granted by this paragraph, exempt at least 15 percent of the
28 lowest emitting motor vehicles from the biennial smog check
29 inspection.

30 (6) Any motor vehicle that the department determines would
31 present prohibitive inspection or repair problems.

32 (7) Any vehicle registered to the owner of a fleet licensed
33 pursuant to Section 44020 if the vehicle is garaged exclusively
34 outside the area included in program coverage, and is not
35 primarily operated inside the area included in program coverage.

36 (b) Vehicles designated for program coverage in enhanced
37 areas shall be required to obtain inspections from appropriate
38 smog check stations operating in enhanced areas.

39 (c) For purposes of subdivision (a), any collector motor
40 vehicle, as defined in Section 259 of the Vehicle Code, is exempt

1 from those portions of the test required by subdivision (f) of
2 Section 44012 if the collector motor vehicle meets all of the
3 following criteria:

4 (1) Submission of proof that the motor vehicle is insured as a
5 collector motor vehicle, as shall be required by regulation of the
6 bureau.

7 (2) The motor vehicle is at least 35 model-years old.

8 (3) The motor vehicle complies with the exhaust emissions
9 standards for that motor vehicle's class and model-year as
10 prescribed by the department, and the motor vehicle passes a
11 functional inspection of the fuel cap and a visual inspection for
12 liquid fuel leaks.

13 SEC. 11. Section 44011.6 of the Health and Safety Code is
14 amended to read:

15 44011.6. (a) The use of a heavy-duty motor vehicle that
16 emits excessive smoke is prohibited.

17 (b) (1) As expeditiously as possible, the state board shall
18 develop a test procedure for the detection of excessive smoke
19 emissions from heavy-duty diesel motor vehicles that is feasible
20 for use in an intermittent roadside inspection program. During
21 the development of the test procedure, the state board shall
22 cooperate with the Department of the California Highway Patrol
23 in conducting roadside inspections.

24 (2) The state board may also specify visual or functional
25 inspection procedures to determine the presence of tampering or
26 defective emissions control systems in heavy-duty diesel or
27 heavy-duty gasoline motor vehicles. However, visual or
28 functional inspection procedures for heavy-duty gasoline motor
29 vehicles shall not be more stringent than those prescribed for
30 heavy-duty gasoline motor vehicles subject to biennial inspection
31 pursuant to Section 44013.

32 (3) The chairperson of the state board shall appoint an ad hoc
33 advisory committee that shall include, but not be limited to,
34 representatives of heavy-duty engine manufacturers, carriers of
35 property for compensation using heavy-duty gasoline or
36 heavy-duty diesel motor vehicles, and the Department of the
37 California Highway Patrol. The advisory committee shall
38 cooperate with the state board to develop a test procedure
39 pursuant to this subdivision and shall advise the state board in

1 developing regulations to implement test procedures and
2 inspection of heavy-duty commercial motor vehicles.

3 (c) Any smoke testing procedures or smoke measuring
4 equipment, including any meter that measures smoke opacity or
5 density and any recorder that stores or records smoke opacity or
6 density measurements, used to test for compliance with this
7 section and regulations adopted pursuant to this section, shall
8 produce consistent and repeatable results. The requirements of
9 this subdivision shall be satisfied by the adoption of Society of
10 Automotive Engineers recommended practice J1667,
11 “Snap-Acceleration Smoke Test Procedures for Heavy-Duty
12 Diesel Powered Vehicles.”

13 (d) (1) The smoke test standards and procedures adopted and
14 implemented pursuant to this section shall be designed to ensure
15 that no engine will fail the smoke test standards and procedures
16 when the engine is in good operating condition and is adjusted to
17 the manufacturer’s specifications.

18 (2) In implementing this section, the state board shall adopt
19 regulations that ensure that there will be no false failures or that
20 ensure that the state board will remedy any false failures without
21 any penalty to the vehicle owner.

22 (e) The state board shall enforce the prohibition against the use
23 of heavy-duty motor vehicles that are determined to have
24 excessive smoke emissions and shall enforce any regulation
25 prohibiting the use of a heavy-duty motor vehicle determined to
26 have other emissions-related defects, using the test procedure
27 established pursuant to this section.

28 (f) The state board may issue a citation to the owner or
29 operator for any vehicle in violation of this section. The
30 regulations may require the operator of a vehicle to submit to a
31 test procedure adopted pursuant to subdivision (b) and this
32 subdivision, and may specify that refusal to so submit is an
33 admission constituting proof of a violation, and shall require that,
34 when a citation has been issued, the owner of a vehicle in
35 violation of the regulations shall, within 45 days, correct every
36 deficiency specified in the citation.

37 (g) The department, in consultation with the state board, may
38 develop criteria for one or more classes of smog check stations
39 capable of determining compliance with regulations adopted
40 pursuant to this section and may authorize those stations to issue

1 certificates of compliance to vehicles in compliance with the
2 regulations. The department may contract for the operation of
3 smog check stations for heavy-duty motor vehicles pursuant to
4 this subdivision, and only heavy-duty motor vehicles may be
5 inspected at those stations.

6 (h) In addition to the corrective action required by this section,
7 the owner of a motor vehicle in violation of this section is subject
8 to a civil penalty of not more than one thousand five hundred
9 dollars (\$1,500) per day for each day that the vehicle is in
10 violation. The state board may adopt a schedule of reduced civil
11 penalties to be applied in cases where violations are corrected in
12 an expeditious manner. However, the schedule of reduced civil
13 penalties shall not apply where there have been repeated
14 incidents of emissions control system tampering. All civil
15 penalties imposed pursuant to this subdivision shall be collected
16 by the state board and deposited in the Vehicle Inspection and
17 Repair Fund. Funds in the Vehicle Inspection and Repair Fund,
18 when appropriated by the Legislature, shall be available to the
19 state board and the Department of the California Highway Patrol
20 for the conduct of intermittent roadside inspections of heavy-duty
21 motor vehicles pursuant to this section.

22 (i) Following the adoption of regulations pursuant to this
23 section, the state board may commence inspecting heavy-duty
24 motor vehicles. With the concurrence of the Department of the
25 California Highway Patrol, these inspections may be conducted
26 in conjunction with the safety and weight enforcement activities
27 of the Department of the California Highway Patrol, or at other
28 locations selected by the state board or the Department of the
29 California Highway Patrol. Inspection locations may include
30 private facilities where fleet vehicles are serviced or maintained.
31 The state board and the Department of the California Highway
32 Patrol may conduct these inspections either cooperatively or
33 independently, and the state board may contract for assistance in
34 the conduct of these inspections.

35 (j) The state board shall inform the Department of the
36 California Highway Patrol whenever a vehicle owner cited
37 pursuant to this section fails to take a required corrective action
38 or to pay a civil penalty levied pursuant to subdivisions (h) and
39 (k) in a timely manner. Following notice and opportunity for an
40 administrative hearing pursuant to subdivision (n), the state board

1 may request the Department of the California Highway Patrol to
2 remove the vehicle from service and order the vehicle to be
3 stored. Upon notification from the state board of payment of any
4 civil penalties imposed under subdivision (h) and storage and
5 related charges, the vehicle shall be released to the owner or
6 designee. Upon release of the vehicle, the owner or designee
7 shall correct every deficiency specified in any citation to that
8 owner with respect to the vehicle.

9 (k) In addition to the corrective action required by subdivision
10 (f), and in addition to the civil penalty imposed by subdivision
11 (h), the owner of a motor vehicle cited by the state board
12 pursuant to this section shall pay a civil penalty of three hundred
13 dollars (\$300) per citation; except that this penalty shall not
14 apply to the first citation for any schoolbus. All civil penalties
15 imposed pursuant to this subdivision shall be collected by the
16 state board and deposited in the Diesel Emission Reduction
17 Fund, which fund is hereby created. Funds in the Diesel
18 Emission Reduction Fund, when appropriated by the Legislature,
19 shall be available to the State Energy Resources Conservation
20 and Development Commission for research, development, and
21 demonstration programs undertaken pursuant to Section 25617 of
22 the Public Resources Code.

23 (l) The state board shall adopt regulations that afford an owner
24 cited under this section an opportunity for an administrative
25 hearing consistent with, but not limited to, all of the following:
26 (1) any owner cited under this section may request an
27 administrative hearing within 45 days following either personal
28 receipt or certified mail receipt of the citation; (2) if the owner
29 fails to request an administrative hearing within 45 days, the
30 citation shall be deemed a final order and not subject to review
31 by any court or agency; (3) if the owner requests an
32 administrative hearing and fails to seek review by administrative
33 mandamus pursuant to Section 1094.5 of the Code of Civil
34 Procedure within 60 days after the mailing of the administrative
35 hearing decision, the decision shall be deemed a final order and
36 not subject to review by any other court or agency; and (4) the
37 45-day period may be extended by the administrative hearing
38 officer for good cause.

39 (m) Following exhaustion of the review procedures provided
40 for in subdivision (l), the state board may apply to the Superior

1 Court of Sacramento County for a judgment in the amount of the
2 civil penalty. The application, which shall include a certified
3 copy of the final order of the administrative hearing officer, shall
4 constitute a sufficient showing to warrant the issuance of the
5 judgment.

6 SEC. 12. Section 44013 of the Health and Safety Code, as
7 added by Section 22.5 of Chapter 1192 of the Statutes of 1994, is
8 amended to read:

9 44013. (a) (1) The state board, in consultation with the
10 department, shall prescribe maximum emission standards to be
11 applied in inspecting motor vehicles under this chapter.

12 (2) In prescribing the standards, the state board shall undertake
13 studies and experiments which are necessary and feasible,
14 evaluate available data, and confer with automotive engineers.

15 (3) The standards shall be set at a level reasonably achievable
16 for each class and model of motor vehicle when operating in a
17 reasonably sound mechanical condition, allowing for the effects
18 of installed motor vehicle pollution control devices and the motor
19 vehicle's age and total mileage.

20 (4) The standards shall be designed so that motor vehicles
21 failing the test specified in Section 44012 will be operated, as
22 soon as possible, with a substantial reduction in emissions, and
23 shall be revised from time to time as experience justifies.

24 (b) The state board, in cooperation with the department, shall
25 research and prescribe test procedures to be applied in inspecting
26 motor vehicles under this chapter, which procedures shall be
27 simple, cost-effective, and consistent with Section 44012. The
28 state board may revise the test procedures from time to time as
29 experience justifies. To the extent that any test procedure
30 revision requires new equipment, or a change in equipment, at
31 licensed smog check stations, the department shall provide a
32 reasonable period of time for the acquisition and installation of
33 that new or changed equipment.

34 (c) Notwithstanding any other provision of this chapter, the
35 maximum emission standards and test procedures prescribed in
36 subdivisions (a) and (b) for a motor vehicle class and model-year
37 shall not be more stringent than the emission standards and test
38 procedures under which that motor vehicle's class and
39 model-year was certified. Emission standards prescribed by the
40 state board and test procedures prescribed by the department

1 shall ensure that not more than 5 percent of the vehicles or
2 engines, which would otherwise meet the requirements of this
3 part, will fail the inspection and maintenance test for that class of
4 vehicle or engine.

5 SEC. 13. Section 44013.5 of the Health and Safety Code is
6 amended to read:

7 44013.5. (a) If the state board, in consultation with the
8 department, determines that substantial demand for emission
9 retrofit devices exists, the department shall develop a program
10 for the certification of emissions retrofit device installations by
11 licensed installers. The department may require installers of
12 emissions retrofit devices to be qualified pursuant to this chapter.
13 The department may assess biennial license fees upon those
14 installers in an amount not to exceed the reasonable cost of
15 administering the emissions retrofit device certification program.

16 (b) The certification shall be performed at a referee or
17 test-only station and shall be based on a visual inspection of the
18 emissions retrofit device and its installation, and verification of
19 the proper operation of any new or modified components that are
20 a part of the emissions retrofit device, and not on the results of an
21 emissions test.

22 (c) The department shall develop a program for the
23 identification of retrofitted vehicles at smog check stations and
24 for providing information required for the inspection of those
25 systems to smog check stations.

26 (d) This section shall become inoperative pursuant to Section
27 33 of the act adding this section or, in any case, five years from
28 the date determined pursuant to Section 32 of the act adding this
29 section, and, on the January 1 following the date upon which this
30 section becomes inoperative, is repealed.

31 SEC. 14. Section 44014.7 of the Health and Safety Code is
32 amended to read:

33 44014.7. (a) The state board shall require 2 percent of the
34 vehicles required to obtain a certificate of compliance each year
35 in enhanced program areas to receive their certificate from a
36 test-only facility.

37 (b) The state board may require a number not to exceed 2
38 percent of the vehicles required to obtain a certificate of
39 compliance each year in basic program areas to receive their
40 certificate from a test-only facility.

(c) The vehicles specified in subdivisions (a) and (b) shall be selected at random. The vehicles may be included among the vehicles subject to subdivision (d) of Section 44010.5, to the extent that the vehicles are registered in enhanced program areas. The review committee may review the selection process to ensure that it is a statistically significant representation of the vehicles subject to the basic and enhanced programs. The department shall select the vehicles and the Department of Motor Vehicles shall notify the owners of their obligation under this section pursuant to Section 4000.3 of the Vehicle Code. Selection shall be made from vehicles in an area where a test-only facility is located.

SEC. 15. Section 44017 of the Health and Safety Code is amended to read:

44017. (a) Except as otherwise provided in this section or Section 44017.1, a motor vehicle owner shall qualify for a repair cost waiver only after expenditure of not less than four hundred fifty dollars (\$450) for repairs, including parts and labor.

(b) The limit established pursuant to subdivision (a) shall not become operative until the department issues a public notice declaring that the program established pursuant to Section 44010.5 is operational in the relevant geographical areas of the state, or until the date that testing in those geographic areas is operative using loaded mode test equipment, as defined in this article, whichever occurs first. Prior to that time, the following cost limits shall remain in effect:

(1) For motor vehicles of 1971 and earlier model years, fifty dollars (\$50).

(2) For motor vehicles of 1972 to 1974, inclusive, model years, ninety dollars (\$90).

(3) For motor vehicles of 1975 to 1979, inclusive, model years, one hundred twenty-five dollars (\$125).

(4) For motor vehicles of 1980 to 1989, inclusive, model years, one hundred seventy-five dollars (\$175).

(5) For motor vehicles of 1990 to 1995, inclusive, model years, three hundred dollars (\$300).

(6) For motor vehicles of 1996 and later model years, four hundred fifty dollars (\$450).

(c) The state board shall periodically revise the repair cost limits specified in subdivisions (a) and (b) in accordance with

1 changes in the Consumer Price Index, as published by the United
2 States Bureau of Labor Statistics.

3 (d) No repair cost limit shall be imposed in those cases where
4 emissions control equipment is missing or is partially or totally
5 inoperative as a result of being tampered with.

6 SEC. 16. Section 44020 of the Health and Safety Code is
7 amended to read:

8 44020. Notwithstanding any other provision of this chapter,
9 the department may license any registered owner of a fleet of 10
10 or more motor vehicles subject to this chapter, who so elects, to
11 implement and conduct the tests and to perform necessary service
12 and adjustment on the fleet's vehicles under this chapter, subject
13 to all of the following conditions:

14 (a) The registered owner's facilities or personnel, or both, or a
15 designated contractor of the registered owner, shall be licensed
16 by the department as a fleet smog check station, and the test and
17 repair system shall conform, in the department's determination,
18 with all provisions of this chapter and all rules and regulations
19 adopted by the department. The regulations shall provide for
20 adequate onsite inspection by the department. Mobile testing
21 equipment certified by the department may be used in accordance
22 with procedures established by the department. The department
23 may prohibit the use of mobile testing equipment if violations
24 occur.

25 (b) A license issued under this section is subject to Sections
26 44035, 44050, and 44072.10, and may be suspended or revoked
27 by the department whenever the department determines, on the
28 basis of random periodic spot checks of the owner's inspection
29 system and fleet vehicles, that the system fails to conform or that
30 certificates of compliance have been issued by the owner in
31 violation of regulations adopted by the department. Any person
32 licensed to conduct tests and service and adjustments under this
33 section is deemed to have consented to provide the department
34 with whatever access, information, and other cooperation the
35 department reasonably determines are necessary to facilitate the
36 random periodic spot checks.

37 (c) The department or its contractor, on a random periodic
38 basis, shall inspect or observe the inspections performed by
39 licensed fleet smog check stations on not less than 2 percent of
40 the total business fleet vehicles subject to this chapter.

1 (d) A fleet owner licensed to conduct tests or make repairs
2 pursuant to this chapter shall issue certificates of compliance for
3 motor vehicles. The cost limits in Section 44017 and the
4 economic hardship extension provisions in this chapter shall not
5 apply to any motor vehicle owned by a fleet owner licensed
6 pursuant to this section.

7 (e) Notwithstanding subdivision (d), certificates of compliance
8 or noncompliance prepared solely for the disposal or sale of
9 motor vehicles owned by a fleet owner licensed pursuant to this
10 section shall be subject to the cost limits in Section 44017.

11 (f) The department shall establish initial and renewal license
12 fees, which shall not exceed the reasonable costs of
13 administering this section.

14 (g) Notwithstanding any other provision of this section, fleets
15 consisting of vehicles for hire or vehicles which accumulate high
16 mileage, as defined by the department, shall go to a test-only
17 station when a smog check certificate of compliance is required.
18 Initially, high mileage vehicles shall be defined as vehicles which
19 accumulate 50,000 miles or more each year. In addition, fleets
20 which do not operate high mileage vehicles may be required to
21 obtain certificates of compliance from the test-only station if they
22 fail to comply with this chapter.

23 (h) Notwithstanding any other provision of this chapter, the
24 state board shall have the authority, by regulation, to require
25 testing of vehicle fleets consistent with regulations adopted by
26 the Environmental Protection Agency, if necessary to meet the
27 emission reduction performance standard established by the
28 agency, as determined by the state board.

29 SEC. 17. Section 44024 of the Health and Safety Code is
30 amended to read:

31 44024. (a) The department, in cooperation with the state
32 board, shall investigate new technologies, including the role of
33 onboard diagnostic systems in vehicles, as a means both for
34 detecting excess emissions and defective emission control
35 equipment, and for assisting in determining what repairs would
36 be effective. The department shall report to the review committee
37 on the results of its investigation for inclusion in the committee's
38 annual report to the Legislature.

39 (b) To incorporate new technologies into the program, the
40 state board may institute the following changes if the state board

1 determines that the changes will be cost-effective and convenient
2 to vehicle owners:

3 (1) The schedule for testing and certifying vehicles.

4 (2) The location and method for complying with the test
5 requirements otherwise applicable under this chapter.

6 (3) The equipment requirements and repair procedures,
7 including the imposition of new or revised diagnostic procedures,
8 to be used at licensed smog check stations.

9 (4) The training, skill, and licensing requirements for smog
10 check technicians.

11 (5) The applicable test procedures and emission standards, as
12 applied at smog check stations, and during roadside inspection.

13 SEC. 18. Section 44024.5 of the Health and Safety Code is
14 amended to read:

15 44024.5. (a) The department shall compile and maintain
16 statistical and emissions profiles of motor vehicles that are
17 subject to the motor vehicle inspection program. The state board
18 may use data from any source, including remote sensing data and
19 other motor vehicle inspection program data, to develop and
20 confirm the validity of the profiles.

21 (b) The state board, in cooperation with the department, shall
22 perform periodic analyses of the statistical and emissions profiles
23 created pursuant to subdivision (a). The department and the state
24 board, in consultation with the Inspection and Maintenance
25 Review Committee, may determine that, in addition to the
26 vehicles excepted pursuant to Section 44011, certain other motor
27 vehicles may be excepted from the biennial certification
28 requirements of this chapter without significantly compromising
29 the emission reduction objectives set forth in the State
30 Implementation Plan (SIP).

31 (c) The department may conduct a pilot program to except
32 from the biennial certification requirement those vehicles that
33 may be jointly determined by the department and the state board,
34 after consultation with the Inspection and Maintenance Review
35 Committee, to warrant exception. The department shall provide
36 written notification to the Legislature specifying the number of
37 vehicles to be exempted as well as the geographic location and
38 duration of the pilot program not less than 30 days prior to the
39 implementation of the pilot program. The department shall
40 submit the results of the pilot program to the state board and the

1 Inspection and Maintenance Review Committee for review.
2 Subject to the approval of the United States Environmental
3 Protection Agency as an amendment to the SIP, the department
4 may establish the exception program as a permanent program.

5 (d) As part of the pilot program, on or before June 30, 2000,
6 the department shall evaluate standards for the operation of
7 remote sensing equipment, evaluate the need to certify
8 individuals who operate that equipment, and evaluate the need to
9 license entities that provide remote sensing services under the
10 direction of the department.

11 (e) For vehicles four ~~model-years~~ *model-years* old or less, the
12 department shall use test data generated pursuant to Section
13 44014.7 to develop statistical and emissions profiles. The
14 department may use data from any source, including remote
15 sensing data, warranty repair and recall data, and other motor
16 vehicle inspection program data, to develop and confirm the
17 validity of the data. If the department and state board jointly
18 determine that the emissions from a class of motor vehicles
19 would potentially compromise the emission reduction objectives
20 set forth in the SIP, the state board shall consider appropriate
21 corrective action, including, but not limited to, recall pursuant to
22 Section 43105.

23 SEC. 19. Section 44036 of the Health and Safety Code is
24 amended to read:

25 44036. (a) The consumer protection-oriented quality
26 assurance portion of the motor vehicle inspection program shall
27 ensure uniform and consistent tests and repairs by all qualified
28 smog check technicians and licensed smog check stations
29 throughout the state, and shall include a number of stations
30 providing referee functions available to consumers.

31 (b) All licensed smog check stations shall utilize original
32 equipment and replacement parts that are certified by the
33 department. The department shall charge a fee for certification
34 testing of the equipment or the replacement parts. The fee for
35 certification testing of equipment shall be fixed by the
36 department based upon its actual costs of certification testing,
37 shall be calculated from the time that the equipment is submitted
38 for certification testing until the time that the certification testing
39 is complete, and shall not exceed ten thousand dollars (\$10,000).
40 The fee for certification testing of replacement parts shall be

determined by the department based upon its actual costs of certification testing, shall be calculated from the time that the replacement part is submitted for certification testing until the time that the certification testing is complete, and shall not exceed two thousand five hundred dollars (\$2,500). The department shall adopt, and may revise, standards for certification and decertification of the equipment, which may include a device for testing of emissions of oxides of nitrogen. As expeditiously as possible, the department shall adopt equipment standards that include a test analyzer system containing all of the following:

(1) A microprocessor to control test sequencing, selection of proper test standards, the automatic pass or fail decision, and the format for the test report and the recorded data file. The microprocessor shall be capable of using a standardized programming language specified by the department.

(2) An exhaust gas analysis portion with an analyzer for hydrocarbons, carbon monoxide, and carbon dioxide that is designed to accommodate an optional oxides of nitrogen analyzer. An oxides of nitrogen analyzer shall be required in the enhanced program areas.

(3) Equipment necessary to perform visual and functional tests of emission control devices required by the department.

(4) A device to accept and record motor vehicle identification information, including a device capable of reading barcode information pursuant to regulations of the state board. The device shall have the ability to identify, with the cooperation of the Department of Motor Vehicles, smog inspections performed on vehicles sold by used car dealers.

(5) A device to provide a printed record of the test process and diagnostic information for the motorist.

(6) A mass storage device capable of storing not less than the minimum amount of program software and data specified by the department.

(7) A device to provide for the periodic modification of all program and data files contained on the mass storage device, using a standardized form of removable media conforming to specifications of the department.

1 (8) A device that provides for the storage of test records on a
2 standardized form of removable media conforming to
3 specifications of the department.

4 (9) One or more communications ports conforming to the
5 specifications established by the department as necessary to
6 provide real time communication, or communication that is
7 consistent with maintaining a superior quality assurance program
8 and efficient information transfer, between the test equipment
9 and the centralized computer database through the computer
10 network maintained by the department pursuant to Section
11 44037.1.

12 (10) An interface capable of monitoring equipment used with
13 loaded mode testing, idle testing, onboard diagnostic testing, or
14 other tests prescribed by the department.

15 (11) Any other features that the department, in consultation
16 with the state board, determines are necessary to increase the
17 effectiveness of the program, including, but not limited to, a
18 loaded mode dynamometer for purposes of oxides of nitrogen
19 detection, and other equipment necessary to detect
20 nonexhaust-related volatile organic compound emissions, such as
21 those found in fuel system evaporative emissions and crankcase
22 ventilation emissions.

23 (c) The department shall require all smog check stations to use
24 equipment meeting the requirements of subdivision (b) as soon as
25 possible, but not later than January 1, 1996. However, the
26 department may defer the requirement for any equipment,
27 external to the chassis of the test analyzer system, needed to read
28 barcode information, until a substantial portion of the vehicles
29 subject to this chapter are equipped with barcode labels. Prior to
30 the imposition of a requirement for equipment meeting the
31 requirements of subdivision (b), every smog check station shall
32 use equipment meeting the specifications of the department in
33 effect on January 1, 1988.

34 (d) The quality assurance portion shall provide for inspections
35 of licensed smog check stations, data collection and forwarding,
36 equipment accuracy checks, operation of referee stations, and
37 other necessary functions. If the services are contracted for
38 pursuant to subdivision (e) of Section 44014, the department
39 shall prepare detailed specifications and solicit bids from private
40 entities for the implementation of the quality assurance functions.

1 (e) The department may revise the specifications for
2 equipment annually if the cost thereof is less than 20 percent of
3 the total system cost. A more comprehensive revision to the
4 specifications may be required not more often than every five
5 years.

6 (f) (1) Equipment manufacturers shall furnish to the
7 department, and shall install, software and hardware updates as
8 specified by the department. The department shall allow
9 equipment manufacturers six months, from the date the
10 department issues its proposed specifications for periodic
11 software and hardware updates, to obtain department approval
12 that the updates meet the proposed specifications and to install
13 the updates in all equipment subject to the updates. During the
14 first 30 days of the six-month period, the manufacturers shall be
15 permitted to review and to comment upon the proposed
16 specifications. However, notwithstanding any other provision of
17 this section, the department may order manufacturers to install
18 software and hardware changes in a shorter period of time upon a
19 finding by the department that a previously installed update does
20 not meet current specifications.

21 (2) The state board, in consultation with the department, may
22 establish hardware specifications, performance standards, and
23 operational requirements for the certification and continuing
24 certification of the equipment specified in subdivision (b).

25 (3) A manufacturer's failure to furnish or install required
26 software updates or to meet the specifications, standards, or
27 requirements established pursuant to paragraph (2), is cause for
28 the department to decertify the manufacturer's test analyzer
29 system or to issue a citation to the manufacturer. The citation
30 shall specify the nature of the violation and may specify a civil
31 penalty not to exceed one thousand dollars (\$1,000) for each day
32 the manufacturer fails to furnish or install the specified software
33 updates by the specified period. In assessing a civil penalty
34 pursuant to this paragraph, the department shall give due
35 consideration, in determining the appropriateness of the amount
36 of the civil penalty, to factors such as the gravity of the violation,
37 the good faith of the manufacturer, and the history of previous
38 violations.

39 (4) The citations shall be served pursuant to subdivision (c) of
40 Section 11505 of the Government Code. The manufacturer may

1 request a hearing in accordance with Chapter 5 (commencing
2 with Section 11500) of Part 1 of Division 3 of Title 2 of the
3 Government Code. A request for a hearing shall be submitted in
4 writing within 30 days of service of the citation, and shall be
5 delivered to the office of the department in Sacramento. Hearings
6 and related procedures under this paragraph shall be conducted in
7 the same manner as proceedings for adjudication of an accusation
8 under that Chapter 5, except as otherwise specified in this article.

9 (5) If within 30 days from the date of service of the citation,
10 the manufacturer fails to request a hearing, the citation shall be
11 deemed the final order of the department.

12 (6) Any failure to comply with the final order of the
13 department for payment of a civil penalty, or to pay the amount
14 specified in any settlement executed by the licensee and the
15 Director of Consumer Affairs, is cause for decertification of the
16 manufacturer's test analyzer system.

17 SEC. 20. Section 44037.2 of the Health and Safety Code is
18 amended to read:

19 44037.2. (a) The department, in consultation with the state
20 board, may enter into a contract for telecommunication,
21 programming, data analysis, data processing, and other services
22 necessary to operate and maintain the centralized computer
23 database and computer network specified in Section 44037.1.

24 (b) The department may, for each transmittal of data to the
25 centralized database, charge a licensed smog check station a
26 transaction fee established by the department. The transaction fee
27 shall be sufficient to cover the actual costs of operating and
28 maintaining the current database and network.

29 (c) Any contract made pursuant to this section may authorize
30 compensation to the contractor from the transaction fees
31 established by the department. The contractor shall maintain the
32 transaction fees, which may be collected directly by the
33 contractor from the licensed smog check stations, in a separate
34 custodial account that the contractor shall account for and
35 manage in accordance with generally accepted accounting
36 standards and principles.

37 SEC. 21. Section 44050.5 of the Health and Safety Code is
38 amended to read:

39 44050.5. In assessing a civil penalty pursuant to Section
40 44050 against a person who has not previously been cited for a

1 violation of the same statute or regulation, the state board, in
2 consultation with the department, shall fix the penalty at an
3 amount within the minimum and maximum penalties specified in
4 Section 44051 or 44051.5, as the case may be, for each violation.

5 SEC. 22. Section 44058 of the Health and Safety Code is
6 amended to read:

7 44058. Any person who violates this chapter, or any order,
8 rule, or regulation of the department or state board adopted
9 pursuant to this chapter, is guilty of a misdemeanor and shall be
10 punished by a fine of not more than one thousand dollars
11 (\$1,000) or by imprisonment for not more than six months, or by
12 both, in lieu of the imposition of the civil penalties.

13 SEC. 23. Section 44060 of the Health and Safety Code is
14 amended to read:

15 44060. (a) The department shall prescribe the form of the
16 certificate of compliance or noncompliance, repair cost waivers,
17 and economic hardship extensions.

18 (b) The certificates, repair cost waivers, and economic
19 hardship extensions shall be in the form of an electronic entry
20 filed with the department, the Department of Motor Vehicles, and
21 any other person designated by the department. The department
22 shall ensure that the motor vehicle owner or operator is provided
23 with a written report, signed by the licensed technician who
24 performed the inspection, of any test performed by a smog check
25 station, including a pass or fail indication, and written
26 confirmation of the issuance of the certificate.

27 (c) (1) The department, in consultation with the state board,
28 shall charge a fee to a smog check station, including a test-only
29 station, and a station providing referee functions, for a motor
30 vehicle inspected at that station that meets the requirements of
31 this chapter and is issued a certificate of compliance, a certificate
32 of noncompliance, repair cost waiver, or economic hardship
33 extension.

34 (2) The fee charged pursuant to paragraph (1) shall be
35 calculated to recover the costs of the department, the state board,
36 and any other state agency directly involved in the
37 implementation, administration, or enforcement of the motor
38 vehicle inspection and maintenance program, and shall not
39 exceed the amount reasonably necessary to fund the operation of
40 the program, including all responsibilities, requirements, and

1 obligations imposed upon the department, the state board, or any
2 of those state agencies by this chapter, that are not otherwise
3 recoverable by fees received pursuant to Section 44034.

4 (3) Except for adjustments to reflect changes in the Consumer
5 Price Index, as published by the United States Bureau of Labor
6 Statistics, the fee for each certificate, waiver, or extension shall
7 not exceed seven dollars (\$7).

8 (4) Fees collected by the department pursuant to this
9 subdivision shall be deposited in the Vehicle Inspection and
10 Repair Fund. It is the intent of the Legislature that a prudent
11 surplus be maintained in the Vehicle Inspection and Repair Fund.

12 (d) (1) Motor vehicles exempted under paragraph (4) of
13 subdivision (a) of Section 44011 shall be subject to an annual
14 smog abatement fee of twelve dollars (\$12). The department may
15 also, by regulation, subject motor vehicles that are exempted
16 under paragraph (5) of subdivision (a) of Section 44011 to the
17 twelve dollar (\$12) annual smog abatement fee. Payment of the
18 annual smog abatement fee shall be made to the Department of
19 Motor Vehicles at the time of registration of the motor vehicle.

20 (2) Except as provided in subdivision (a) of Section 44091.1,
21 fees collected pursuant to this subdivision shall be deposited on a
22 daily basis into the Vehicle Inspection and Repair Fund.

23 (e) The sale or transfer of the certificate, waiver, or extension
24 by a licensed smog check station or test-only station to any other
25 licensed smog check station or to any other person, and the
26 purchase or acquisition of the certificate, waiver, or extension, by
27 any person, other than from the department, the department's
28 designee, or pursuant to a vehicle's inspection or repair
29 conducted pursuant to this chapter, is prohibited.

30 (f) Following implementation of the electronic entry certificate
31 under subdivision (b), the department may require the
32 modification of the analyzers and other equipment required at
33 smog check stations to prevent the entry of a certificate that has
34 not been issued or validated through prepayment of the fee
35 authorized by subdivision (c).

36 (g) The fee charged by licensed smog check stations to
37 consumers for a certificate, waiver, or extension shall be the
38 same amount that is charged by the department.

39 SEC. 24. Section 44061 of the Health and Safety Code is
40 amended to read:

1 44061. The fees and penalties collected by the state board
2 pursuant to this chapter shall be deposited in the Vehicle
3 Inspection and Repair Fund in accordance with the procedures
4 established by the state board, and is available to the state board,
5 as specified by Section 9886.2 of the Business and Professions
6 Code, and, upon appropriation by the Legislature, to the
7 department and to any other state agency directly involved in the
8 implementation of the motor vehicle inspection program, to carry
9 out its functions and duties specified in this chapter or in any
10 other law.

11 SEC. 25. Section 44070 of the Health and Safety Code is
12 amended to read:

13 44070. (a) The state board shall develop, with the advice and
14 technical assistance of the department, a public information
15 program for the purpose of providing information designed to
16 increase public awareness of the smog check program throughout
17 the state and emissions warranty information to motor vehicle
18 owners subject to an inspection and maintenance program
19 required pursuant to this chapter. The state board, in consultation
20 with the department, shall provide, upon request, either orally or
21 in writing, information regarding emissions-related warranties
22 and available warranty dispute resolution procedures.

23 (b) The telephone number and business hours, and the address
24 if appropriate, of the emissions warranty information program
25 shall be noticed on the vehicle inspection report provided by the
26 test analyzer system for any vehicle which fails the analyzer test.

27 SEC. 26. Section 44070.5 of the Health and Safety Code is
28 amended to read:

29 44070.5. (a) The state board, in consultation with the
30 department, shall develop, and the department shall continuously
31 conduct, a public information program, in consultation with the
32 state board. The program shall be designed to develop and
33 maintain public support and cooperation for the motor vehicle
34 inspection and maintenance program and shall include
35 information on all of the following:

- 36 (1) The health damage caused by air pollution.
- 37 (2) The contribution of automobiles to air pollution and the
38 gross polluter problem.
- 39 (3) Whether a motorist's vehicle could be a gross polluter
40 without the motorist knowing.

1 (4) The importance of maintaining a vehicle's emission
2 control devices in good working order and the importance of the
3 program.

4 (b) That information shall be disseminated by all means that
5 the department determines to be feasible and cost-effective,
6 including, but not limited to, television, newspaper, and radio
7 advertising and trailers in movie theaters. The department may
8 also utilize grass roots community networks, including local
9 opinion leaders, churches, the PTA, and the workplace.
10 Extensive marketing research shall be performed to identify the
11 target population.

12 SEC. 27. Section 44071 of the Health and Safety Code is
13 amended to read:

14 44071. For purposes of implementing the smog check public
15 awareness and emissions warranty information programs, the
16 state board shall use funds from the fee charged for each
17 certificate of compliance or noncompliance which are deposited
18 in the Vehicle Inspection and Repair Fund pursuant to Section
19 44060.

20 SEC. 28. Section 44072.1 of the Health and Safety Code is
21 amended to read:

22 44072.1. The director may deny a license if the applicant, or
23 any partner, officer, or director thereof, does any of the
24 following:

25 (a) Fails to meet the qualifications established by the bureau or
26 the state board pursuant to Articles 2 (commencing with Section
27 44010) and 3 (commencing with Section 44030) and the
28 regulations adopted for the issuance of the license applied for.

29 (b) Was previously the holder of a license issued under this
30 chapter, which license has been revoked and never reissued or
31 which license was suspended and the terms of the suspension
32 have not been fulfilled.

33 (c) Has committed any act which, if committed by any
34 licensee, would be grounds for the suspension or revocation of a
35 license issued pursuant to this chapter.

36 (d) Has committed any act involving dishonesty, fraud, or
37 deceit whereby another is injured or whereby the applicant has
38 benefited.

39 (e) Has acted in the capacity of a licensed person or firm under
40 this chapter without having a license therefor.

(f) Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of a crime substantially related to the qualifications, functions, and duties of the licenseholder in question, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

SEC. 29. Section 44072.10 of the Health and Safety Code is amended to read:

44072.10. (a) Notwithstanding Sections 44072 and 44072.4, the director, or the director's designee, pending a hearing conducted pursuant to subdivision (e), may temporarily suspend any smog check station or technician's license issued under this chapter, for a period not to exceed 60 days, if the department determines that the licensee's conduct would endanger the public health, safety, or welfare before the matter could be heard pursuant to subdivision (e), based upon reasonable evidence of any of the following:

(1) Fraud.

(2) Tampering.

(3) Intentional or willful violation of this chapter or any regulation, standard, or procedure of the department implementing this chapter.

(4) A pattern or regular practice of violating this chapter or any regulation, standard, or procedure of the department implementing this chapter.

(b) If a motor vehicle dealer sells any used vehicle, knowing that the vehicle has been fraudulently certified, that act shall be additional grounds for suspension or revocation pursuant to Section 11705 of the Vehicle Code. A dealer's license revoked pursuant to this subdivision shall not be reinstated for any reason for a period of at least five years.

(c) The department shall revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of the following:

1 (1) Clean piping, as defined by the department.

2 (2) Tampering with a vehicle emission control system or test
3 analyzer system.

4 (3) Tampering with a vehicle in a manner that would cause the
5 vehicle to falsely pass or falsely fail an inspection.

6 (4) Intentional or willful violation of this chapter or any
7 regulation, standard, or procedure of the department or state
8 board implementing this chapter.

9 (d) Once a license has been revoked for a smog check station
10 or technician under subdivision (a) or (c), the license shall not be
11 reinstated for any reason. A hearing shall be held and a decision
12 issued within 60 days after the date on which the notice of the
13 temporary suspension was provided unless the time for the
14 hearing has been extended, or the right to a hearing has been
15 waived, by the licensee.

16 (e) The hearing shall be conducted in accordance with Chapter
17 5 (commencing with Section 11500) of Part 1 of Division 3 of
18 Title 2 of the Government Code, or by court order.

19 (f) The department shall adopt, by regulation, procedures to
20 ensure that any affected licensee is provided adequate notice and
21 opportunity to be heard, except as otherwise provided in
22 subdivision (a), prior to issuing an order temporarily suspending
23 a license under this section.

24 SEC. 30. Section 44081 of the Health and Safety Code is
25 amended to read:

26 44081. (a) (1) The state board, in cooperation with the
27 department, shall institute procedures for auditing the emissions
28 of vehicles while actually being driven on the streets and
29 highways of the state. The state board may undertake those
30 procedures itself or seek a qualified vendor of these services. The
31 primary object of the procedures shall be the detection of gross
32 polluters. The procedures shall consist of techniques and
33 technologies determined to be effective for that purpose by the
34 state board, in consultation with the department, including, but
35 not limited to, remote sensing. The procedures may include
36 pullovers for roadside emissions testing and inspection. The state
37 board shall consider the recommendations of the review
38 committee based on the outcome of the pilot demonstration
39 program conducted pursuant to Section 44081.6.

1 (2) The state board may additionally use other methods to
2 identify gross polluting vehicles for out-of-cycle testing and
3 repair.

4 (b) The state board shall, by regulation, establish a program
5 for the out-of-cycle testing and repair of motor vehicles found,
6 through roadside auditing, to be emitting at levels that exceed
7 specified standards. The program shall include all of the
8 following elements:

9 (1) Emission standards, and test and inspection procedures and
10 regulations, adopted in coordination with the department,
11 applicable to vehicles tested during roadside auditing. Emission
12 standards for issuance of a notice of noncompliance to a gross
13 polluter shall be designed to maximize the identification of
14 vehicles with substantial excess emissions.

15 (2) Procedures for issuing notices of noncompliance to owners
16 of gross polluters, either at the time of the roadside audit, or
17 subsequently by certified mail, or by obtaining a certificate of
18 mailing as evidence of service, using technologies for recording
19 license plate numbers. The notice of noncompliance shall provide
20 that, unless the vehicle is brought to a designated test-only
21 facility or a test-and-repair station that is both licensed and
22 certified pursuant to Sections 44014 and 44014.2, for emissions
23 testing within 30 days, the owner is required to pay an
24 administrative fee of five hundred dollars (\$500) to be collected
25 by the Department of Motor Vehicles at the next annual
26 registration renewal or the next change of ownership of the
27 vehicle, whichever occurs first. Commencing on the 31st day
28 after issuance of the notice of noncompliance, the fee shall
29 accrue at the rate of five dollars (\$5) per day up to the five
30 hundred-dollar (\$500) maximum.

31 (3) Procedures for the testing of vehicles identified as gross
32 polluters by a designated test-only facility, or a test-and-repair
33 station that is both licensed and certified pursuant to Sections
34 44014 and 44014.2, to confirm that the vehicle exceeds the
35 minimum emission standard for gross polluters set by the
36 department.

37 (4) Procedures requiring owners of vehicles confirmed as
38 gross polluters to have the vehicle repaired, resubmitted for
39 testing, and obtain a certificate of compliance from a designated
40 test-only facility, or a test-and-repair station that is both licensed

1 and certified pursuant to Sections 44014 and 44014.2, or
 2 removed from service as attested by a certificate of nonoperation
 3 from the Department of Motor Vehicles within 30 days or be
 4 required to pay an administrative fee of not more than five
 5 hundred dollars (\$500), to be collected by the Department of
 6 Motor Vehicles at the next annual registration renewal or the
 7 next change of ownership, whichever occurs first. Commencing
 8 on the 31st day after issuance of the notice of noncompliance, the
 9 fee shall accrue at the rate of five dollars (\$5) per day up to the
 10 five hundred-dollar (\$500) maximum. The registration of a
 11 vehicle shall not be issued or renewed if that vehicle has been
 12 identified as a gross polluter and has not been issued a certificate
 13 of compliance. Except as provided in subdivision (b) of Section
 14 9250.18 of the Vehicle Code, any revenues collected by the
 15 Department of Motor Vehicles pursuant to this subdivision and
 16 Section 9250.18 of the Vehicle Code shall be deposited in the
 17 Vehicle Inspection and Repair Fund. If the ownership of the
 18 vehicle is transferred, the administrative fee provided for in this
 19 subdivision shall be waived if the vehicle is brought into
 20 compliance.

21 (5) A procedure for notifying the Department of Motor
 22 Vehicles of notices of noncompliance issued, so that the
 23 Department of Motor Vehicles may provide effective collection
 24 of the administrative fee. The Department of Motor Vehicles
 25 shall cooperate with, and implement the requirements of, the
 26 department in that regard.

27 (c) The state board may adopt any other regulations necessary
 28 for the effective implementation of this section, as determined by
 29 the state board.

30 (d) Upon the request of the state board, the Department of the
 31 California Highway Patrol shall provide assistance in conducting
 32 roadside auditing, to consist of (1) the stopping of vehicles and
 33 traffic management, and (2) the issuance of notices of
 34 noncompliance to gross polluters. The state board shall reimburse
 35 the Department of the California Highway Patrol for its costs of
 36 providing those services. The Department of Transportation and
 37 affected local agencies shall provide necessary assistance and
 38 cooperation to the department in the operation of the program.

39 (e) There shall be no repair cost limit imposed pursuant to
 40 Section 44017 for any repairs that are required to be made under

1 the roadside auditing program, except as provided in Section
2 44017.

3 (f) This section does not apply to vehicles operating under a
4 valid repair cost waiver or economic hardship extension issued
5 pursuant to Section 44015.

6 SEC. 31. Section 44091 of the Health and Safety Code is
7 amended to read:

8 44091. (a) The High Polluter Repair or Removal Account is
9 hereby created in the Vehicle Inspection and Repair Fund. All
10 money deposited in the account pursuant to this article shall be
11 available, upon appropriation by the Legislature, to the
12 department and the state board to establish and implement a
13 program for the repair or replacement of high polluters pursuant
14 to Section 44062.1 and Article 10 (commencing with Section
15 44100).

16 (b) The state board may accept donations or grants of funds
17 from any person for purposes of the program and shall deposit
18 that money in the account. Donations, grants, or other
19 commitments of money to the account may be dedicated for
20 specific purposes consistent with the uses of the account,
21 including, but not limited to, purchasing higher emitting vehicles
22 for the purpose of achieving the emission reductions required by
23 the M-1 strategy of the 1994 State Implementation Plan (SIP).

24 (c) The funds which are available in the account in any fiscal
25 year for a particular area that is subject to an inspection and
26 maintenance program shall be distributed to reflect the number of
27 vehicles registered in that area to the total number of vehicles
28 registered in areas that are subject to inspection and maintenance
29 programs. That percentage shall be the percentage of the total
30 funds allocated to the program in that fiscal year which are
31 available for that particular area.

32 (d) It is the intent of the Legislature that a prudent amount be
33 determined to retain as a reserve in the Vehicle Inspection and
34 Repair Fund, and that any moneys in the fund above that amount
35 be transferred to the High Polluter Repair or Removal Account. It
36 is also the intent of the Legislature that those transferred moneys
37 be available, upon appropriation by the Legislature, for
38 expenditure by the state board to support the programs described
39 in this section.

1 (e) During any fiscal year, the money in the account shall be
2 available, upon appropriation by the Legislature, for the
3 following purposes:

4 (1) Assistance in the repair of high polluters pursuant to the
5 program established pursuant to Section 44062.1.

6 (2) Voluntary accelerated retirement of high polluters.

7 (3) Rulemaking, vehicle testing, and other technical work
8 required to implement and administer the repair assistance
9 program established pursuant to Section 44062.1 and the
10 program described in Article 10 (commencing with Section
11 44100).

12 (f) An amount of one million dollars (\$1,000,000) annually for
13 the 1997–98 fiscal year and the 1998–99 fiscal year shall be
14 made available from the account for a program to evaluate the
15 emission reduction effectiveness of the M-1 strategy of the 1994
16 SIP.

17 (g) All remaining amounts in the account shall be available to
18 the program of repair assistance established pursuant to Section
19 44062.1.

20 (h) In no case shall the funding available in any subsequent
21 fiscal year to the state board for repairing or removing
22 high-emitting vehicles under the inspection and maintenance
23 program be less than the amount made available from the
24 Vehicle Inspection and Repair Fund for that purpose in the
25 1995–96 fiscal year.

26 SEC. 32. Section 44093 of the Health and Safety Code is
27 amended to read:

28 44093. The repair of high polluters under the program shall
29 be designed to offer repair cost assistance to qualified
30 low-income motor vehicle owners for vehicles that are in need of
31 repairs to obtain a certificate of compliance, as determined by the
32 state board.

33 SEC. 33. Section 44094 of the Health and Safety Code is
34 amended to read:

35 44094. (a) Participation in the high polluter repair or removal
36 program specified in this article and Article 10 (commencing
37 with Section 44100) shall be voluntary and shall be available to
38 the owners of high polluters that are registered in an area that is
39 subject to an inspection and maintenance program, have been
40 registered for at least 24 months in the district where the credits

1 are to be applied and, are presently operational, and meet other
2 criteria, as determined by the state board.

3 (b) The program shall provide for both of the following:

4 (1) As to the repair of a high polluter, payment to the owner of
5 up to 80 percent of the total cost of repair, as determined by the
6 department, but the payment shall not exceed four hundred fifty
7 dollars (\$450).

8 (2) As to the removal of a high polluter, the program shall be
9 subject to Article 10 (commencing with Section 44100).

10 (c) The state board may specify the amount of money that may
11 be paid to an owner of a high-polluting motor vehicle who
12 voluntarily retires the vehicle. The amount paid by the state
13 board shall be based on the ~~cost-effectiveness~~ *cost-effectiveness*
14 and the air quality benefit of retiring the vehicle, as determined
15 by the state board.

16 (d) The state board may authorize participation in the program
17 based on a reasonable estimate of the future revenues that will be
18 available to the program.

19 SEC. 34. Section 44095 of the Health and Safety Code is
20 amended to read:

21 44095. (a) The department shall administer the program in
22 accordance with regulations adopted by the state board.

23 (b) (1) Nothing in this article shall be construed as
24 superseding or precluding any similar program that is
25 administered by a district, any other public agency, or any other
26 person.

27 (2) The state board shall develop a methodology for, and shall
28 undertake, a uniform data analysis of the program operated
29 pursuant to this article and any similar programs operated in this
30 state for the purpose of providing an accounting of the emission
31 reductions that are achieved by all such programs.

32 (c) The department may directly operate the program or may
33 provide for the program's operation pursuant to contract. The
34 department may contract with local agencies, community
35 colleges, or private entities to perform all or any portion of the
36 program.